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Office of the Attorney General
Washington, D. C. 20530

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Honorable Stansfield Turner
Director
Central Intelligence Agency
Washington, D. C. 20505

Dear Stan:

Thank you for your letter of January 28, forwarding a signed copy of the proposed CIA/DOJ Memorandum of Understanding governing reporting of violations of Title 18, United States Code, as provided by 28 U.S.C. § 535. The editorial changes which you suggested have been incorporated into the Memorandum.

It has been necessary, however, to revise the Memorandum of Understanding further to comply with the requirements of Executive Order 12036, which was promulgated after our staffs had reached agreement on the Memorandum. As you know, section 1-706 of the Executive order directs the senior officials of the intelligence agencies to:

> Report to the Attorney General evidence of possible violations of federal criminal law by an employee of their department or agency . . .

Section 4-204 of the Executive order defines employee to mean "a person employed by, assigned to, or acting for an agency within the Intelligence Community." This reporting requirement had not been completely formulated when the Memorandum of Understanding was prepared. To avoid delay, the Memorandum deferred consideration of reporting requirements under the Executive order, providing only that the same procedures would be used for whatever reports the Executive order required.

The Executive order is now in force. To comply with its requirements, the following substantive changes have been made in the Memorandum:

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(a) Paragraph 1 now refers to the requirements of both 28 U.S.C. § 535 and E.O. 12036. The authority for the memorandum is stated to be 28 U.S.C. § 535(b)(2) and E.O. 12036, §§ 1-706 and 3-305.

(b) Footnote 1 is omitted. This footnote in effect deferred consideration of reporting requirements under the Executive order until its adoption; that footnote has now been superseded. The succeeding footnotes are renumbered.

(c) The first sentence of paragraph 2 now reads "violated a federal criminal statute" instead of "violated Title 18 of the United States Code." This reflects the broader scope of E.O. 12036, § 1-706.

(d) Footnote 1, formerly footnote 2, has a new sentence which incorporates the definition of "employee" required by § 4-204 of the Executive order.

(e) Paragraph 6, which deals with the format of reports, now refers to both 28 U.S.C. § 535 and the Executive order.

(f) Paragraph 7 has been omitted and paragraph 8 renumbered. The omitted paragraph was an interim agreement that reports required by the new Executive order would be made by the same procedures as those required by 28 U.S.C. § 535. It has been superseded by the promulgation of the Executive order.

As you are also aware, section 1-706 of Executive Order 12036 requires reporting of certain crimes committed by persons other than agency employees. In particular, it requires senior officials of the intelligence community to:

> [R]eport to the Attorney General evidence of possible violations by any other person of those federal criminal laws specified in guidelines adopted by the Attorney General.

These guidelines and appropriate reporting procedures are now under consideration.

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With these changes, the Memorandum of Understanding complies with the requirements of E.O. 12036 governing the reporting of possible federal crimes committed by intelligence community employees. I look forward to fruitful cooperation between the Department of Justice and the Central Intelligence Agency in implementing it.

Yours sincerely,

Griffin B. Bell

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Attorney General

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